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April 24, 2023

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Tyrone Simmons*,
08 Cr. 1133 (AKH); 16 Civ. 4797 (AKH)

Dear Judge Hellerstein:

I write to ask that the Court assign counsel to represent Tyrone Simmons on the remand ordered by the Second Circuit in this case.

I was not trial counsel for Mr. Simmons. I was assigned by the Second Circuit to represent him on his appeal from the judgment in 08-cr-1133 (AKH). Mr. Simmons agreed to withdraw that appeal in the Circuit. Subsequently, I filed a motion in this Court under 28 U.S.C. §2255 *pro bono*, seeking to have Mr. Simmons' conviction under 18 USC §924(c) vacated. This Court denied the motion but certified two questions for appeal to the Second Circuit. This Court also granted my motion to permit Mr. Simmons, who has been incarcerated since 2008, to proceed *in forma pauperis* in the Circuit.

On appeal, the Second Circuit affirmed the judgment of this Court. I subsequently applied for a writ of *certiorari* in the United States Supreme Court. *Certiorari* was granted, and the Supreme Court remanded Mr. Simmons' case to the Second Circuit in light of its decision in *United States v. Taylor*, 142 S.Ct. 2015 (2022). On February 9, 2023, the Second Circuit issued an Order vacating this Court's denial of Mr. Simmons' §2255 motion and remanding the case for further proceedings in this Court.

Mr. Simmons needs counsel on remand. He advises me that his financial situation has not changed since he signed the financial affidavit that led to my appointment as appellate counsel in 2019. I am no longer on the District Court CJA panel, having decided not to seek reappointment at the end of my term in 2022. It is my understanding that the Court may nevertheless assign me as counsel or may assign alternate counsel.

*Became of finances,
Stephanie M. Carvlin, Esq.
is appointed CJA counsel for
Def't.
4.26.23
Alvin K. Hellerstein*

Mr. Simmons has told me he would like me to represent him on remand. The government takes no position with respect to this request.

Respectfully submitted,

_____/s/_____
Stephanie Carvlin